



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

SEP 30 2009

REPLY TO THE ATTENTION OF:  
(AE-17J)

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Sarah Schlichtholz, Environmental Manager  
Alter Trading Corporation  
801 Barge Channel Road  
St. Paul, Minnesota 55107

Dear Ms. Schlichtholz:

Enclosed is your copy of the signed Administrative Consent Order (ACO) which resolves the violations of the safe disposal requirements found at 40 C.F.R. 82.156(f) identified in the ACO.

The terms of this ACO became effective on the date of signature by the Director, and are binding for two years from the effective date. Failure to comply with this ACO may subject Alter Trading Corporation to penalties of up to \$37,500 per day for each violation under Section 113 of the Act, 42 U.S.C. § 7413, and 40 C.F.R. Part 19.

Should you have any questions, please contact Mr. Richard Clarizio, Associate Regional Counsel, at (312) 886-0559, or Ms. Lynne Roberts, of my staff, at (312) 886-0250.

Sincerely,

A handwritten signature in black ink, appearing to read "Brent Marable", is written over a horizontal line.

Brent Marable, Chief  
Air Enforcement and Compliance Assurance Section (IL/IN)

Enclosures: ACO

cc: Lynne Roberts (AE-17J)  
Richard Clarizio (C-14J)

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

<b>In the Matter of:</b>	)	<b>EPA-5-09-113(a)-MN-11</b>
	)	
<b>Alter Trading Corporation</b>	)	<b>Proceeding Under Sections 113(a)(3)</b>
<b>St. Paul, Minnesota</b>	)	<b>and 114(a)(1)</b>
	)	<b>of the Clean Air Act</b>
	)	<b>42 U.S.C. §§ 7413(a)(3) and 7414(a)(1)</b>
	)	
_____	)	

**Administrative Consent Order**

1. The Director of the Air and Radiation Division ("Director"), U.S. Environmental Protection Agency, Region 5 ("USEPA" or "EPA"), and Alter Trading Corporation ("Alter") are entering into this Administrative Compliance Order ("ACO" or "Order") under Section 113(a)(3) and 114(a)(1) of the Clean Air Act ("Act"), 42 U.S.C. §§ 7413(a)(3) and 7414(a)(1).

**I. Statutory and Regulatory Background**

2. Section 113(a)(3)(B) of the Act, 42 U.S.C. § 7413(a)(3)(B), authorizes the Administrator of EPA to issue an Order requiring compliance with Title VI of the Act to any person who has violated or is violating any requirement of Title VI of the Act. The Administrator of EPA has delegated her Order authority to the Regional Administrator of EPA, Region V pursuant to EPA Headquarters Delegation 7-6-A. The Regional Administrator of EPA, Region V, has delegated his Order authority to the Director pursuant to EPA Region V Delegation 7-6-A.

3. Section 114(a)(1) of the Act, 42 U.S.C. § 7414(a) authorizes the Administrator of EPA to require any person who owns or operates an emission source to make reports and provide information required by the Administrator. The Administrator of EPA has delegated her information gathering authority to the Regional Administrator of EPA, Region V pursuant to

EPA Headquarters Delegation 7-8. The Regional Administrator of EPA, Region V, has delegated his information gathering authority to the Director pursuant to EPA Region V Delegation 7-8.

4. According to section 113(a)(4) of the Act, 42 U.S.C. § 7413(a)(4), an Order issued under section 113(a)(3)(B) shall not take effect until the person to whom it is issued has had an opportunity to confer with EPA concerning the alleged violations. The Order must state with reasonable specificity the nature of the violations and the time for compliance taking into consideration the seriousness of the violation and any good faith efforts to comply. The Order shall require compliance as expeditiously as practicable but in no event longer than one year after the date of issuance of the Order.

5. Title VI of the Act, 42 U.S.C. § 7671, *et seq.* provides for the protection of stratospheric ozone. Section 608(c), 42 U.S.C. § 7671(c), prohibits the knowing venting of class I or II substances to the environment. Section 608(b) of the Act, 42 U.S.C. § 7671g(b) provides EPA with the authority to regulate the safe disposal of class I and II substances. Class I and II substances include refrigerant containing chlorofluorocarbons (“CFCs”). In the May 14, 1993, Federal Register, 58 Fed. Reg. 28660, EPA promulgated regulations covering the safe disposal of CFCs from small appliances and motor vehicles and ensuring that no person vents class I or II substances to the environment. The regulations are found in Subpart F of Part 82 of Title 40 of the Code of Federal Regulations, 40 C.F.R. Part 82, Subpart F.

6. Effective July 13, 1993, persons who take the final step in the disposal process (including but not limited to scrap recyclers) of small appliances and motor vehicle air conditioner (“MVAC”) units must either recover the refrigerant in accordance with specific procedures or verify with signed statements that the refrigerant was properly evacuated and

recovered prior to receipt of the small appliance or MVAC unit. *See* 40 C.F.R. § 82.156(f). If verification statements are used then the suppliers of the small appliance or MVAC units must be notified of the need to properly evacuate and recover the refrigerant. *See* 40 C.F.R.

§ 82.156(f)(3). Verification statements must be kept on site for a minimum of three years. *See* 40 C.F.R. § 82.166(i) and (m). It is a violation of the regulations for someone to accept a signed verification statement if the person knew or had reasons to know that such signed statement is false. *See* 40 C.F.R. § 82.154(n). Cut or missing refrigerant lines on a small appliance may be an indication that class I or II refrigerants were vented to the environment. *See* 58 Federal Register, 28660 (May 14, 1993).

## **II. Findings**

7. Alter owns and operates a scrap metal recycling facility at 801 Barge Channel Road, St. Paul, Minnesota (“St. Paul facility”). Alter is a corporation organized and doing business in Minnesota. Alter is a person as defined by 40 C.F.R. § 82.156.

8. On September 30, 2008, EPA issued to Alter a request for information concerning the St. Paul facility pursuant to Section 114(a) of the Clean Air Act, 42 U.S.C. § 7414(a). EPA requested information regarding Alter’s business practices at the St. Paul facility related to the safe disposal requirements found in 40 C.F.R. Part 82, Subpart F.

9. On October 28, 2008, Alter responded to EPA’s information request. Alter included copies of verification statements it was using at the St. Paul facility after April 1, 2008. On July 8, 2009, Alter supplemented its responses to EPA’s October 28, 2008, information requests.

10. Alter accepted motor vehicles containing MVAC units at the St. Paul facility. Some of the motor vehicles accepted at the St. Paul facility contained MVAC units that once

contained refrigerant. Alter stored motor vehicles at the St. Paul facility prior to transport off-site to another recycler.

11. Alter does not accept small appliances at the St. Paul facility.
12. Motor vehicles Alter received at the St. Paul facility were weighed, unloaded and stored pending transport to an off-site recycler for further processing.
13. Alter does not perform refrigerant recovery at the St. Paul facility.
14. From April 1, 2008 to September 9, 2008, Alter collected verification statements from its peddlers and suppliers of automobiles to the St. Paul facility. EPA reviewed the verification statements Alter submitted with its October 28, 2008, response. Alter submitted approximately 300 verification statements for the period April to September 2008. The verification statements used by Alter did not require a sworn statement or certification that the information provided was correct. Approximately 28 statements were not completed. Approximately 53 of the statements indicated that refrigerant was recovered but either did not identify the person who recovered the refrigerant or identified the supplier (an individual) as the person who recovered refrigerant.
15. Alter is a person who is subject to the requirements of 40 C.F.R. Part 82, Subpart F.

### **III. Compliance Program and Agreement**

16. Alter agrees to comply with 40 C.F.R. Part 82. Additionally, Alter agrees to implement the following actions for one year after the effective date of this Order for any MVAC that it receives at the St. Paul facility.
17. Within thirty (30) days of receipt of this Order, and as set forth more fully below, Alter agrees to recover any remaining refrigerant from MVACs it accepts from peddlers at the

St. Paul facility in accordance with 40 C.F.R. Section 82.156(f)(1) and, with respect to its other suppliers, verify that the refrigerant has been previously evacuated from the MVAC or MVACs in accordance with Section 82.156(f)(2).

18. Alter agrees to inspect and recover any remaining refrigerant from MVACs it receives from peddlers. (Peddlers are individuals or entities that infrequently transport to Alter a single motor vehicle or shipments with a few motor vehicles and for which Alter does not maintain a frequent supplier contract per Paragraph 20). If Alter recovers refrigerant from MVACs at the St. Paul facility or arranges for it to be recovered at the St. Paul facility by a third party, Alter agrees that it will develop, use, and maintain for one year a log which contains the following information: the date refrigerant was removed, how much was recovered, the type of refrigerant recovered, and the name of the person responsible for recovering the refrigerant. Alter will also have a refrigerant recovery contract in place with each third party it uses to recover the refrigerant from MVACs at the St. Paul facility. The refrigerant recovery contract will be signed by both parties and contain a specific term of duration. This contract will not automatically renew. The contract will require refrigerant recovery in accordance with the procedures identified in 40 C.F.R. 82.156(g) and (h).

19. If Alter chooses to use a verification statement from a peddler or other supplier, then Alter agrees that the verification statement will include a signed statement from the person from whom the appliance or shipment of appliances is obtained that all refrigerant that had not leaked previously had been recovered from the appliances in accordance with 40 C.F.R. Section 82.156(g) or (h), as applicable. Alter agrees that the statement will include the name and address of the person who recovered the refrigerant, the date the refrigerant was recovered and a certification that the refrigerant was recovered in accordance with the procedures identified in 40

C.F.R. 82.156(g) or (h). Alter will have its suppliers use the verification statement that Alter submits to EPA pursuant to Paragraph 25 of this Order.

20. With respect to Alter's frequent suppliers of motor vehicles, Alter may use a contract as an equivalent to the verification statement pursuant to 40 C.F.R. Section 82.156(f)(2). Alter agrees that the contract with its frequent suppliers will identify the entity responsible for recovering the refrigerant and the period of time covered by the contract. Alter agrees that the contract will include enough information for EPA and Alter to determine that the person recovering the refrigerant has knowledge of how the refrigerant is to be recovered in order to meet the requirements of 40 C.F.R. Section 82.156(g). Alter will use the contract included as Exhibit 1 to this Order.

21. Alter agrees to maintain copies of signed verification statements and equivalent contracts at the St. Paul facility for three years in accordance with 40 C.F.R. Section 82.166(i) and (m).

22. In accordance with 40 C.F.R. Section 82.154(a)(1), Alter agrees that it will not knowingly vent or otherwise release into the environment any refrigerant or substitute from MVACs, except as otherwise allowed in 40 C.F.R. Section 82.154(a)(2). Alter agrees that it will not accept any MVAC where it has a reasonable basis at the time of purchase to believe that the refrigerant has been knowingly and/or intentionally vented to the environment.

23. Alter will not accept small appliances at the St. Paul facility.

24. To facilitate the implementation of Paragraphs 16-22, Alter agrees to perform the following:

- a. inform St. Paul facility peddlers when they call to seek information, and through posted notices at the St. Paul facility, that Alter will arrange for the proper removal of refrigerants remaining in MVACs.

b. provide information to its peddlers and suppliers in the form of educational material posted in and around the St. Paul facility receiving area indicating that it is unlawful to intentionally vent refrigerants to the environment.

25. Alter agrees that it will provide EPA with confirmation that the above requirements have been met by submitting within ninety (90) days of the effective date this Order:

a. a blank copy of the verification form that Alter may use to verify proper refrigerant recovery including fields to enter the name and address of the person who recovered the refrigerant and the date recovered;

b. copies of signed, dated contracts with frequent suppliers collected at the St. Paul facility (for the 90 day period beginning from the effective date of this Order); and

c. copies of refrigerant removal contract(s) with third-parties or proof that the St. Paul facility has acquired the equipment necessary to properly remove the refrigerant; and

d. a MVAC refrigerant recovery log for refrigerant removed from MVACs at the St. Paul facility; this log shall be submitted every 90 days for the duration of this Order.

#### **IV. General Provisions**

26. Alter agrees to the terms of this Order but neither admits nor denies the Findings contained in Section II of this Order.

27. Alter does not and will not contest EPA's jurisdiction and/or authority to enter into this agreement with respect to the St. Paul facility. Alter waives any further opportunity to confer or have a hearing.

28. This Order does not affect Alter's responsibility to comply with other federal, state, and local laws.

29. Alter may assert a claim of business confidentiality under 40 C.F.R. Part 2, Subpart B, for any portion of the information it submits to U.S. EPA. Information subject to a



business confidentiality claim is available to the public only to the extent allowed by 40 C.F.R. Part 2, Subpart B. If Alter fails to assert a business confidentiality claim, U.S. EPA may make all submitted information available, without further notice, to any member of the public who requests it. Emission data provided under Section 114 of the Act, 42 U.S.C. § 7414, is not entitled to confidential treatment under 40 C.F.R. Part 2, Subpart B. "Emission data" is defined at 40 C.F.R. § 2.301.

30. This Order is not subject to the Paperwork Reduction Act, 44 U.S.C. § 3501 *et seq.*, because it seeks collection of information by an agency from specific individuals or entities as part of an administrative action or investigation. To aid in our electronic record keeping efforts, please provide your response to this Order without staples. Paper clips, binder clips, and 3-ring binders are acceptable.

31. This Order does not restrict EPA's authority to enforce any violations of the Act.

32. Failure to comply with this Order may subject Alter to penalties of up to \$37,500 per day for each violation under Section 113 of the Act, 42 U.S.C. § 7413 and 40 C.F.R. Part 19.

33. The terms of this Order are binding on Alter, its assignees, and successors. Alter must give notice of this Order to any successors in interest prior to transferring ownership of the St. Paul facility and must simultaneously verify to EPA that it has given the notice.

34. EPA may use any information submitted under this Order in an administrative, civil, judicial, or criminal action.

35. This Order is effective on the date of receipt of this Order by the Respondent with the signature by the Director. This Order will terminate one year from the effective date, provided that Alter has complied with all terms of the Order throughout its duration.

36. All reports required by this Order shall be sent to:

Attention: Compliance Tracker (AE-17J)  
Air Enforcement and Compliance Assurance Branch U.S. EPA,  
Region 5  
77 West Jackson  
Chicago, Illinois 60604

37. Alter certifies that it is complying fully with 40 C.F.R. Part 82.

38. Each person signing this Order certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

39. Each party agrees to pay its own costs and attorneys' fees in this action.


40. This Order constitutes the entire agreement between the parties.

41. This Order resolves Alter's liability, if any, for civil violations of 40 C.F.R.

Part 82 as alleged herein with respect to the St. Paul facility provided it complies with this Order.

AGREED AS STATED ABOVE:

ALTER TRADING CORPORATION

By:   
Name: Rex B. Wood  
Title: Vice President

Date: 9/25/09

AGREED AND SO ORDERED:

U.S. ENVIRONMENTAL PROTECTION AGENCY

9/30/09 Date   
Cheryl L. Newton  
Director  
Air and Radiation Division



## MATERIAL SUPPLIER\* CERTIFICATION

As a \*supplier, or dealer, of recyclable materials and in consideration of the opportunity to sell such material to Alter Metal Recycling ("Alter"), the undersigned ("Supplier") agrees and certifies to the following:

- Inbound Material Source Control Program.** Supplier is in receipt of Alter's "Inbound Material Source Control Program: Unacceptable and Conditionally Acceptable Materials" list<sup>1</sup>. Supplier understands that materials are subject to inspection by Alter at time of delivery, and that if deemed unacceptable, will be returned to Supplier at Supplier's expense or paid at a reduced rate. All scrap must NOT CONTAIN RADIOACTIVE MATERIALS, HAZARDOUS MATERIALS/WASTE, ASBESTOS AND/OR SEALED CONTAINERS.
- Vehicle Acceptance Policy.** All vehicles, whether whole, crushed, or partially crushed, will be delivered free of mercury switches, batteries, and lead parts, and will be drained of fluids, including antifreeze, fuel, and oils to the extent practicable. Prior to delivery, all regulated refrigerants<sup>2</sup> contained in motor vehicle air conditioners<sup>3</sup> that had not leaked previously will be properly recovered in accordance with 40 CFR 82.156(g) using EPA-certified recovery equipment. In addition, receiving facility may require tires to be removed or may apply a deduction if present at time of delivery.
- Appliances/White Goods Acceptance Policy.** Appliances, whether whole, crushed, or partially crushed, will be delivered free of components containing polychlorinated biphenyls ("PCBs"), such as PCB capacitors and ballasts, and mercury-containing components, such as bulbs, switches, and thermocouples. Prior to delivery, all regulated refrigerants<sup>2</sup> from appliances<sup>4</sup> containing refrigeration or air conditioning devices that had not leaked previously will be properly recovered in accordance with 40 CFR 82.156(h) using EPA-certified recovery equipment.
- Mercury Minimization Program.** Alter may request documentation of Supplier's efforts to remove mercury switches from vehicles. This may entail a demonstration of participation in the National Vehicle Mercury Switch Removal Program (or equivalent program) by Supplier and/or Supplier's upstream suppliers.
- National Motor Vehicle Titling Information System.** Supplier is complying with the reporting requirements of the National Motor Vehicle Titling Information System (NMVTIS) under 49 U.S.C. Section 30504(a) of the Anti Car Theft Act. Seller further certifies that it has made the required electronic reports (or will report within 30 days of initial vehicle acquisition) for all vehicles. This includes the information required under section 25.56(b) of the NMVTIS Regulation.

This certification shall not automatically renew and will expire 3 years after date signed by Supplier or until revoked in writing by either of the parties, whereupon it will terminate thirty days after receipt of the written request by the other party. Supplier warrants that any applicable state-specific registrations or permits identified below will be renewed upon expiration as long as this certification continues in affect and Supplier will provide at least 30 days written notice to Alter prior to allowing such registrations or permits to lapse. Supplier agrees to indemnify and hold Alter harmless from any claim, penalty, fine, fee, cost, attorney's fees or other liability resulting in whole or in part from Supplier's breach of this certification.

Supplier (Individual and/or Company): \_\_\_\_\_

Street Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Authorized Signature: \_\_\_\_\_

Individual Name (Print): \_\_\_\_\_

Title: \_\_\_\_\_

Date Signed: \_\_\_\_\_

### STATE-SPECIFIC REGISTRATIONS/PERMITS

WI Appliance/Vehicle Suppliers Only		IA Appliance Suppliers Only	MN Appliance Suppliers Only	
WDNR Registration for Refrigerant Recovery		IDNR-Certified Appliance Demanufacturing Permit (ADP)	U.S. EPA Refrigerant Technician Certification	
Reg. Number	Type 1, 2, or 3	Permit No.	Cert. Number	Type
<input type="checkbox"/> Not registered with DNR. Possess documentation that another person removed all remaining refrigerants.		<input type="checkbox"/> Not permitted with DNR. Possess documentation that another IDNR-certified entity demanufactured appliances.	<input type="checkbox"/> Attach copy of EPA Technician Certification and "Refrigerant Recovery or Recycling Device Acquisition Certification Form."	

<sup>1</sup> Also available at the receiving facility scale office and at <http://www.altermetalrecycling.com/altermetalrecycling/acceptableItems.jsp>.

<sup>2</sup> Partly or wholly containing class I or II (CFCs HCFCs, HFCs, PFCs) Ozone Depleting Substances (ODSs) and substitutes, which do not contain ODSs.

<sup>3</sup> As defined in 40 CFR 82.152 and including motor vehicle air conditioners (MVAC) or MVAC-like appliances (e.g. agricultural and construction equipment).

<sup>4</sup> As defined in 40 CFR 82.152 and including, but not limited to, refrigerators and freezers (designed for home, commercial, or consumer use), medical or industrial research refrigeration equipment, room air conditioners (including window air conditioners and packaged terminal air heat pumps), dehumidifiers, under-the-counter ice makers, vending machines, drinking water coolers, compressors or other refrigeration components removed from appliances.

ALTER USE ONLY: Accepted by Buyer \_\_\_\_\_ (Signature) on \_\_\_\_\_ (date)  
Receiving Facility (circle all applicable): AN BD BU CR CO DA DE DU EC GR GB GU HA HF JA LA LR LI MD MK MA MS MC  
MO NO OM PE PO QU ST WC WN WA BROKER

**CERTIFICATE OF MAILING**

I, Betty Williams, certify that I sent the Administrative Consent Order, EPA Order No. EPA-5-09-113(a)-MN-11, by Certified Mail, Return Receipt Requested, to:

Sarah Schlichtholz, Environmental Manager  
Alter Trading Corporation  
801 Barge Channel Road  
St. Paul, Minnesota 55107

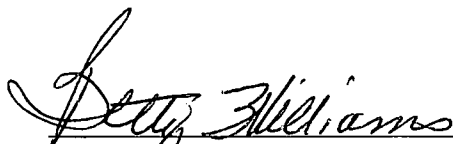
and

Ryan R. Kemper  
Thompson Coburn LLP  
One US Bank Plaza  
St. Louis, Missouri 63101

I also certify that I sent a copy of the Administrative Consent Order, EPA Order No. EPA-5-09-113(a)-MN-11, by First Class Mail to:

Katie Koelfgen, Supervisor  
Air Quality and Enforcement Unit  
MPCA  
520 Lafayette Road  
St. Paul, MN 55155

on the 30<sup>th</sup> day of September 2009.

  
Betty Williams, Secretary  
AECAS, (IL/IN)

CERTIFIED MAIL RECEIPT NUMBER: 7001 0320 0005 8915 9211 - Sarah Schlichtholz  
7001 0320 0005 8915 9204 - Ryan R. Kemper